

AMENDED IN SENATE SEPTEMBER 1, 2015

AMENDED IN ASSEMBLY APRIL 7, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 224

Introduced by Assembly Member Jones-Sawyer

February 3, 2015

An act to amend Sections 48204, 48645.5, 48853, and 48853.5 of the Education Code, and to amend Sections 317 and 16010 of the Welfare and Institutions Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

AB 224, as amended, Jones-Sawyer. Pupils: educational liaison for foster children. *children: notice of educational rights of foster children.*

Existing law requires each local educational agency, as defined, to designate a staff person as the educational liaison for foster children, as defined. Existing law requires the educational liaison to ensure and facilitate the proper educational placement, enrollment in school, and checkout from school of foster children, and to assist foster children when transferring from one school to another school or from one school district to another school district in ensuring the proper transfer of credits, records, and grades.

This bill would require the State Department of Education, in consultation with the California Foster Youth Education Task Force, to develop a standardized notice of the educational rights of foster children, as specified, to post the notice on its Internet Web site, and to make copies of the notice available to educational liaison liaisons for foster children for dissemination. *dissemination by posting the notice on its Internet Web site.* The bill would require the department to consult

with the Office of the State Foster Care Ombudsperson in developing specified notice provisions. The bill would require an educational liaison for foster children to ensure that public notice of the educational rights of foster children developed by the department is disseminated or posted in a public area at schools where pupils that are foster children are in attendance. The bill would additionally require an educational liaison for foster children, at the time a foster child seeks enrollment in a school and by the most cost efficient and effective means possible, to provide notice of the educational rights of foster children developed by the department to the foster child and to the parent, guardian, or educational rights holder for the foster child. By placing additional responsibilities upon an educational liaison designee of a local educational agency, the bill would impose a state-mandated local program. The bill would also make other conforming and nonsubstantive changes.

This bill would incorporate changes to Section 48204 of the Education Code proposed by both this bill and SB 200, which would become operative only if both bills are enacted and become effective on or before January 1, 2016, and this bill is chaptered last.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 48204 of the Education Code, as amended
- 2 by Section 1 of Chapter 93 of the Statutes of 2012, is amended to
- 3 read:
- 4 48204. (a) Notwithstanding Section 48200, a pupil complies
- 5 with the residency requirements for school attendance in a school
- 6 district, if he or she is any of the following:
- 7 (1) (A) A pupil placed within the boundaries of that school
- 8 district in a regularly established licensed children's institution,
- 9 or a licensed foster home, or a family home pursuant to a
- 10 commitment or placement under Chapter 2 (commencing with

1 Section 200) of Part 1 of Division 2 of the Welfare and Institutions
2 Code.

3 (B) An agency placing a pupil in a home or institution described
4 in subparagraph (A) shall provide evidence to the school that the
5 placement or commitment is pursuant to law.

6 (2) A pupil who is a foster child who remains in his or her school
7 of origin pursuant to subdivisions ~~(e)~~ and (f) and (g) of Section
8 48853.5.

9 (3) A pupil for whom interdistrict attendance has been approved
10 pursuant to Chapter 5 (commencing with Section 46600) of Part
11 26.

12 (4) A pupil whose residence is located within the boundaries of
13 that school district and whose parent or legal guardian is relieved
14 of responsibility, control, and authority through emancipation.

15 (5) A pupil who lives in the home of a caregiving adult that is
16 located within the boundaries of that school district. Execution of
17 an affidavit under penalty of perjury pursuant to Part 1.5
18 (commencing with Section 6550) of Division 11 of the Family
19 Code by the caregiving adult is a sufficient basis for a
20 determination that the pupil lives in the home of the caregiver,
21 unless the school district determines from actual facts that the pupil
22 is not living in the home of the caregiver.

23 (6) A pupil residing in a state hospital located within the
24 boundaries of that school district.

25 (b) A school district may deem a pupil to have complied with
26 the residency requirements for school attendance in the *school*
27 district if at least one parent or the legal guardian of the pupil is
28 physically employed within the boundaries of that *school* district
29 for a minimum of 10 hours during the school week.

30 (1) This subdivision does not require the school district within
31 which at least one parent or the legal guardian of a pupil is
32 employed to admit the pupil to its schools. A school district shall
33 not, however, refuse to admit a pupil under this subdivision on the
34 basis, except as expressly provided in this subdivision, of race,
35 ethnicity, sex, parental income, scholastic achievement, or any
36 other arbitrary consideration.

37 (2) The school district in which the residency of either the
38 parents or the legal guardian of the pupil is established, or the
39 school district to which the pupil is to be transferred under this
40 subdivision, may prohibit the transfer of the pupil under this

1 subdivision if the governing board of the *school* district determines
2 that the transfer would negatively impact the court-ordered or
3 voluntary desegregation plan of the *school* district.

4 (3) The school district to which the pupil is to be transferred
5 under this subdivision may prohibit the transfer of the pupil if the
6 *school* district determines that the additional cost of educating the
7 pupil would exceed the amount of additional state aid received as
8 a result of the transfer.

9 (4) The governing board of a school district that prohibits the
10 transfer of a pupil pursuant to paragraph (1), (2), or (3) is
11 encouraged to identify, and communicate in writing to the parents
12 or the legal guardian of the pupil, the specific reasons for that
13 determination and is encouraged to ensure that the determination,
14 and the specific reasons—~~therefor~~, *for the determination*, are
15 accurately recorded in the minutes of the board meeting in which
16 the determination was made.

17 (5) The average daily attendance for pupils admitted pursuant
18 to this subdivision is calculated pursuant to Section 46607.

19 (6) Unless approved by the sending school district, this
20 subdivision does not authorize a net transfer of pupils out of a
21 school district, calculated as the difference between the number
22 of pupils exiting the *school* district and the number of pupils
23 entering the *school* district, in a fiscal year in excess of the
24 following amounts:

25 (A) For a school district with an average daily attendance for
26 that fiscal year of less than 501, 5 percent of the average daily
27 attendance of the *school* district.

28 (B) For a school district with an average daily attendance for
29 that fiscal year of 501 or more, but less than 2,501, 3 percent of
30 the average daily attendance of the *school* district or 25 pupils,
31 whichever amount is greater.

32 (C) For a school district with an average daily attendance of
33 2,501 or more, 1 percent of the average daily attendance of the
34 *school* district or 75 pupils, whichever amount is greater.

35 (7) Once a pupil is deemed to have complied with the residency
36 requirements for school attendance pursuant to this subdivision
37 and is enrolled in a school in a school district the boundaries of
38 which include the location where at least one parent or the legal
39 guardian of a pupil is physically employed, the pupil does not have
40 to reapply in the next school year to attend a school within that

1 *school* district and the ~~district~~ governing board *of the school district*
2 shall allow the pupil to attend school through grade 12 in that
3 *school* district if the parent or legal guardian so chooses and if at
4 least one parent or the legal guardian of the pupil continues to be
5 physically employed by an employer situated within the attendance
6 boundaries of the *school* district, subject to paragraphs (1) to (6),
7 inclusive.

8 (c) This section shall become inoperative on July 1, 2017, and
9 as of January 1, 2018, is repealed, unless a later enacted statute,
10 that becomes operative on or before January 1, 2018, deletes or
11 extends the dates on which it becomes inoperative and is repealed.

12 *SEC. 1.5. Section 48204 of the Education Code, as amended*
13 *by Section 1 of Chapter 93 of the Statutes of 2012, is amended to*
14 *read:*

15 48204. (a) Notwithstanding Section 48200, a pupil complies
16 with the residency requirements for school attendance in a school
17 district, if he or she is any of the following:

18 (1) (A) A pupil placed within the boundaries of that school
19 district in a regularly established licensed children's institution,
20 or a licensed foster home, or a family home pursuant to a
21 commitment or placement under Chapter 2 (commencing with
22 Section 200) of Part 1 of Division 2 of the Welfare and Institutions
23 Code.

24 (B) An agency placing a pupil in a home or institution described
25 in subparagraph (A) shall provide evidence to the school that the
26 placement or commitment is pursuant to law.

27 (2) A pupil who is a foster child who remains in his or her school
28 of origin pursuant to subdivisions ~~(d) and (e)~~ (f) and (g) of Section
29 48853.5.

30 (3) A pupil for whom interdistrict attendance has been approved
31 pursuant to Chapter 5 (commencing with Section 46600) of Part
32 26.

33 (4) A pupil whose residence is located within the boundaries of
34 that school district and whose parent or legal guardian is relieved
35 of responsibility, control, and authority through emancipation.

36 (5) A pupil who lives in the home of a caregiving adult that is
37 located within the boundaries of that school district. Execution of
38 an affidavit under penalty of perjury pursuant to Part 1.5
39 (commencing with Section 6550) of Division 11 of the Family
40 Code by the caregiving adult is a sufficient basis for a

1 determination that the pupil lives in the home of the caregiver,
2 unless the school district determines from actual facts that the pupil
3 is not living in the home of the caregiver.

4 (6) A pupil residing in a state hospital located within the
5 boundaries of that school district.

6 (7) *A pupil whose parent or legal guardian resides outside of*
7 *the boundaries of that school district but is employed and lives*
8 *with the pupil at the place of his or her employment within the*
9 *boundaries of the school district for a minimum of three days*
10 *during the school week.*

11 (b) A school district may deem a pupil to have complied with
12 the residency requirements for school attendance in the *school*
13 district if at least one parent or the legal guardian of the pupil is
14 physically employed within the boundaries of that *school* district
15 for a minimum of 10 hours during the school week.

16 (1) This subdivision does not require the school district within
17 which at least one parent or the legal guardian of a pupil is
18 employed to admit the pupil to its schools. A school district shall
19 not, however, refuse to admit a pupil under this subdivision on the
20 basis, except as expressly provided in this subdivision, of race,
21 ethnicity, sex, parental income, scholastic achievement, or any
22 other arbitrary consideration.

23 (2) The school district in which the residency of either the
24 parents or the legal guardian of the pupil is established, or the
25 school district to which the pupil is to be transferred under this
26 subdivision, may prohibit the transfer of the pupil under this
27 subdivision if the governing board of the *school* district determines
28 that the transfer would negatively impact the court-ordered or
29 voluntary desegregation plan of the *school* district.

30 (3) The school district to which the pupil is to be transferred
31 under this subdivision may prohibit the transfer of the pupil if the
32 *school* district determines that the additional cost of educating the
33 pupil would exceed the amount of additional state aid received as
34 a result of the transfer.

35 (4) The governing board of a school district that prohibits the
36 transfer of a pupil pursuant to paragraph (1), (2), or (3) is
37 encouraged to identify, and communicate in writing to the parents
38 or the legal guardian of the pupil, the specific reasons for that
39 determination and is encouraged to ensure that the determination,
40 and the specific reasons ~~therefor~~, *for the determination*, are

1 accurately recorded in the minutes of the board meeting in which
2 the determination was made.

3 (5) The average daily attendance for pupils admitted pursuant
4 to this subdivision is calculated pursuant to Section 46607.

5 (6) Unless approved by the sending school district, this
6 subdivision does not authorize a net transfer of pupils out of a
7 school district, calculated as the difference between the number
8 of pupils exiting the *school* district and the number of pupils
9 entering the *school* district, in a fiscal year in excess of the
10 following amounts:

11 (A) For a school district with an average daily attendance for
12 that fiscal year of less than 501, 5 percent of the average daily
13 attendance of the *school* district.

14 (B) For a school district with an average daily attendance for
15 that fiscal year of 501 or more, but less than 2,501, 3 percent of
16 the average daily attendance of the *school* district or 25 pupils,
17 whichever amount is greater.

18 (C) For a school district with an average daily attendance of
19 2,501 or more, 1 percent of the average daily attendance of the
20 *school* district or 75 pupils, whichever amount is greater.

21 (7) Once a pupil is deemed to have complied with the residency
22 requirements for school attendance pursuant to this subdivision
23 and is enrolled in a school in a school district the boundaries of
24 which include the location where at least one parent or the legal
25 guardian of a pupil is physically employed, the pupil does not have
26 to reapply in the next school year to attend a school within that
27 *school* district and the ~~district~~ governing board *of the school district*
28 shall allow the pupil to attend school through grade 12 in that
29 *school* district if the parent or legal guardian so chooses and if at
30 least one parent or the legal guardian of the pupil continues to be
31 physically employed by an employer situated within the attendance
32 boundaries of the *school* district, subject to paragraphs (1) to (6),
33 inclusive.

34 (c) This section shall become inoperative on July 1, 2017, and
35 as of January 1, 2018, is repealed, unless a later enacted statute,
36 that becomes operative on or before January 1, 2018, deletes or
37 extends the dates on which it becomes inoperative and is repealed.

38 SEC. 2. Section 48204 of the Education Code, as amended by
39 Section 2 of Chapter 93 of the Statutes of 2012, is amended to
40 read:

1 48204. (a) Notwithstanding Section 48200, a pupil complies
2 with the residency requirements for school attendance in a school
3 district, if he or she is:

4 (1) (A) A pupil placed within the boundaries of that school
5 district in a regularly established licensed children's institution,
6 or a licensed foster home, or a family home pursuant to a
7 commitment or placement under Chapter 2 (commencing with
8 Section 200) of Part 1 of Division 2 of the Welfare and Institutions
9 Code.

10 (B) An agency placing a pupil in the home or institution
11 described in subparagraph (A) shall provide evidence to the school
12 that the placement or commitment is pursuant to law.

13 (2) A pupil who is a foster child who remains in his or her school
14 of origin pursuant to subdivisions ~~(e) and (f)~~ and (g) of Section
15 48853.5.

16 (3) A pupil for whom interdistrict attendance has been approved
17 pursuant to Chapter 5 (commencing with Section 46600) of Part
18 26.

19 (4) A pupil whose residence is located within the boundaries of
20 that school district and whose parent or legal guardian is relieved
21 of responsibility, control, and authority through emancipation.

22 (5) A pupil who lives in the home of a caregiving adult that is
23 located within the boundaries of that school district. Execution of
24 an affidavit under penalty of perjury pursuant to Part 1.5
25 (commencing with Section 6550) of Division 11 of the Family
26 Code by the caregiving adult is a sufficient basis for a
27 determination that the pupil lives in the home of the caregiver,
28 unless the school district determines from actual facts that the pupil
29 is not living in the home of the caregiver.

30 (6) A pupil residing in a state hospital located within the
31 boundaries of that school district.

32 (b) This section shall become operative on July 1, 2017.

33 *SEC. 2.5. Section 48204 of the Education Code, as amended*
34 *by Section 2 of Chapter 93 of the Statutes of 2012, is amended to*
35 *read:*

36 48204. (a) Notwithstanding Section 48200, a pupil complies
37 with the residency requirements for school attendance in a school
38 district, if he or she is:

39 (1) (A) A pupil placed within the boundaries of that school
40 district in a regularly established licensed children's institution,

1 or a licensed foster home, or a family home pursuant to a
2 commitment or placement under Chapter 2 (commencing with
3 Section 200) of Part 1 of Division 2 of the Welfare and Institutions
4 Code.

5 (B) An agency placing a pupil in the home or institution
6 described in subparagraph (A) shall provide evidence to the school
7 that the placement or commitment is pursuant to law.

8 (2) A pupil who is a foster child who remains in his or her school
9 of origin pursuant to subdivisions ~~(d) and (e)~~ (f) and (g) of Section
10 48853.5.

11 (3) A pupil for whom interdistrict attendance has been approved
12 pursuant to Chapter 5 (commencing with Section 46600) of Part
13 26.

14 (4) A pupil whose residence is located within the boundaries of
15 that school district and whose parent or legal guardian is relieved
16 of responsibility, control, and authority through emancipation.

17 (5) A pupil who lives in the home of a caregiving adult that is
18 located within the boundaries of that school district. Execution of
19 an affidavit under penalty of perjury pursuant to Part 1.5
20 (commencing with Section 6550) of Division 11 of the Family
21 Code by the caregiving adult is a sufficient basis for a
22 determination that the pupil lives in the home of the caregiver,
23 unless the school district determines from actual facts that the pupil
24 is not living in the home of the caregiver.

25 (6) A pupil residing in a state hospital located within the
26 boundaries of that school district.

27 *(7) A pupil whose parent or legal guardian resides outside of*
28 *the boundaries of that school district but is employed and lives*
29 *with the pupil at the place of his or her employment within the*
30 *boundaries of the school district for a minimum of three days*
31 *during the school week.*

32 (b) This section shall become operative on July 1, 2017.

33 SEC. 3. Section 48645.5 of the Education Code is amended to
34 read:

35 48645.5. (a) Each public school district and county office of
36 education shall accept for credit full or partial coursework
37 satisfactorily completed by a pupil while attending a public school,
38 juvenile court school, or nonpublic, nonsectarian school or agency.
39 The coursework shall be transferred by means of the standard state
40 transcript. If a pupil completes the graduation requirements of his

1 or her school district of residence while being detained, the school
2 district of residence shall issue to the pupil a diploma from the
3 school the pupil last attended before detention or, in the alternative,
4 the county superintendent of schools may issue the diploma.

5 (b) A pupil shall not be denied enrollment or readmission to a
6 public school solely on the basis that he or she has had contact
7 with the juvenile justice system, including, but not limited to:

8 (1) Arrest.

9 (2) Adjudication by a juvenile court.

10 (3) Formal or informal supervision by a probation officer.

11 (4) Detention for any length of time in a juvenile facility or
12 enrollment in a juvenile court school.

13 (c) Pursuant to subparagraph (B) of paragraph (8) of subdivision
14 (f) of Section 48853.5, a pupil who has had contact with the
15 juvenile justice system shall be immediately enrolled in a public
16 school.

17 SEC. 4. Section 48853 of the Education Code is amended to
18 read:

19 48853. (a) A pupil described in subdivision (a) of Section
20 48853.5 who is placed in a licensed children's institution or foster
21 family home shall attend programs operated by the local
22 educational agency, unless one of the following applies:

23 (1) The pupil is entitled to remain in his or her school of origin
24 pursuant to paragraph (1) of subdivision (e) of Section 48853.5.

25 (2) The pupil has an individualized education program requiring
26 placement in a nonpublic, nonsectarian school or agency, or in
27 another local educational agency.

28 (3) The parent or guardian, or other person holding the right to
29 make educational decisions for the pupil pursuant to Section 361
30 or 726 of the Welfare and Institutions Code or Section 56055,
31 determines that it is in the best interests of the pupil to be placed
32 in another educational program, in which case the parent or
33 guardian or other person holding the right to make educational
34 decisions for the pupil shall provide a written statement that he or
35 she has made that determination to the local educational agency.
36 This statement shall include a declaration that the parent, guardian,
37 or other person holding the right to make educational decisions
38 for the pupil is aware of all of the following:

39 (A) The pupil has a right to attend a regular public school in the
40 least restrictive environment.

1 (B) The alternate education program is a special education
2 program, if applicable.

3 (C) The decision to unilaterally remove the pupil from the
4 regular public school and to place the pupil in an alternate
5 education program may not be financed by the local educational
6 agency.

7 (D) Any attempt to seek reimbursement for the alternate
8 education program may be at the expense of the parent, guardian,
9 or other person holding the right to make educational decisions
10 for the pupil.

11 (b) For purposes of ensuring a parent, guardian, or other person
12 holding the right to make educational decisions for the pupil is
13 aware of the information described in subparagraphs (A) to (D),
14 inclusive, of paragraph (3) of subdivision (a), the local educational
15 agency may provide him or her with that information in writing.

16 (c) Before any decision is made to place a pupil in a juvenile
17 court school as defined by Section 48645.1, a community school
18 as described in Sections 1981 and 48660, or other alternative
19 educational setting, the parent or guardian, or person holding the
20 right to make educational decisions for the pupil pursuant to
21 Section 361 or 726 of the Welfare and Institutions Code or Section
22 56055, shall first consider placement in the regular public school.

23 (d) If any dispute arises as to the school placement of a pupil
24 subject to this section, the pupil has the right to remain in his or
25 her school of origin, as defined in subdivision (f) of Section
26 48853.5, pending resolution of the dispute. The dispute shall be
27 resolved in accordance with the existing dispute resolution process
28 available to any pupil served by the local educational agency.

29 (e) This section does not supersede other laws that govern pupil
30 expulsion.

31 (f) This section does not supersede any other law governing the
32 educational placement in a juvenile court school, as defined by
33 Section 48645.1, of a pupil detained in a county juvenile hall, or
34 committed to a county juvenile ranch, camp, forestry camp, or
35 regional facility.

36 (g) Foster children living in emergency shelters, as referenced
37 in the federal McKinney-Vento Homeless Assistance Act (42
38 U.S.C. Sec. 11301 et seq.), may receive educational services at
39 the emergency shelter as necessary for short periods of time for
40 either of the following reasons:

1 (1) For health and safety emergencies.

2 (2) To provide temporary, special, and supplementary services
3 to meet the child's unique needs if a decision regarding whether
4 it is in the child's best interests to attend the school of origin cannot
5 be made promptly, it is not practical to transport the child to the
6 school of origin, and the child would otherwise not receive
7 educational services.

8 The educational services may be provided at the shelter pending
9 a determination by the person holding the right regarding the
10 educational placement of the child.

11 (h) All educational and school placement decisions shall be
12 made to ensure that the child is placed in the least restrictive
13 educational programs and has access to academic resources,
14 services, and extracurricular and enrichment activities that are
15 available to all pupils. In all instances, educational and school
16 placement decisions shall be based on the best interests of the
17 child.

18 SEC. 5. Section 48853.5 of the Education Code is amended to
19 read:

20 48853.5. (a) This section applies to a foster child. "Foster
21 child" means a child who has been removed from his or her home
22 pursuant to Section 309 of the Welfare and Institutions Code, is
23 the subject of a petition filed under Section 300 or 602 of the
24 Welfare and Institutions Code, or has been removed from his or
25 her home and is the subject of a petition filed under Section 300
26 or 602 of the Welfare and Institutions Code.

27 (b) The department, in consultation with the California Foster
28 Youth Education Task Force, shall develop a standardized notice
29 of the educational rights of foster children, as specified in Sections
30 48850 to this section, inclusive, 48911, 48915.5, 49069.5, 49076,
31 51225.1, and 51225.2. The notice shall include complaint process
32 information, as applicable. The department shall ~~post the notice~~
33 ~~on its Internet Web site and make copies of the notice available to~~
34 ~~educational liaison liaisons for foster children for dissemination~~
35 ~~pursuant to this section.~~ *by posting the notice on its Internet Web*
36 *site.* Any version of this notice prepared for use by foster children
37 shall also include, to the greatest extent practicable, the rights
38 established pursuant to Section 16001.9 of the Welfare and
39 Institutions Code. In developing the notice that includes the rights
40 in Section 16001.9 of the Welfare and Institutions Code, the

1 department shall consult with the Office of the State Foster Care
2 Ombudsperson.

3 (c) Each local educational agency shall designate a staff person
4 as the educational liaison for foster children. In a school district
5 that operates a foster children services program pursuant to Chapter
6 11.3 (commencing with Section 42920) of Part 24 of Division 3,
7 the educational liaison shall be affiliated with the local foster
8 children services program. The educational liaison shall do ~~all~~ *both*
9 of the following:

10 (1) Ensure and facilitate the proper educational placement,
11 enrollment in school, and checkout from school of foster children.

12 (2) Assist foster children when transferring from one school to
13 another school or from one school district to another school district
14 in ensuring proper transfer of credits, records, and grades.

15 ~~(3) Ensure that public notice of the educational rights of foster~~
16 ~~children, developed by the department pursuant to subdivision (b),~~
17 ~~is disseminated or posted in a public area at schools where pupils~~
18 ~~that are foster children are in attendance.~~

19 ~~(4) At the time a foster child seeks enrollment in a school and~~
20 ~~by the most cost efficient and effective means possible, provide~~
21 ~~notice of the educational rights of foster children, developed by~~
22 ~~the department pursuant to subdivision (b), to the foster child and~~
23 ~~to the parent, guardian, or educational rights holder for the foster~~
24 ~~child.~~

25 (d) If so designated by the superintendent of the local
26 educational agency, the educational liaison shall notify a foster
27 child's attorney and the appropriate representative of the county
28 child welfare agency of pending expulsion proceedings if the
29 decision to recommend expulsion is a discretionary act, pending
30 proceedings to extend a suspension until an expulsion decision is
31 rendered if the decision to recommend expulsion is a discretionary
32 act, and, if the foster child is an individual with exceptional needs,
33 pending manifestation determinations pursuant to Section 1415(k)
34 of Title 20 of the United States Code if the local educational agency
35 has proposed a change in placement due to an act for which the
36 decision to recommend expulsion is at the discretion of the
37 principal or the district superintendent of schools.

38 (e) This section does not grant authority to the educational
39 liaison that supersedes the authority granted under state and federal
40 law to a parent or legal guardian retaining educational rights, a

1 responsible adult appointed by the court to represent the child
2 pursuant to Section 361 or 726 of the Welfare and Institutions
3 Code, a surrogate parent, or a foster parent exercising the authority
4 granted under Section 56055. The role of the educational liaison
5 is advisory with respect to placement decisions and determination
6 of the school of origin.

7 (f) (1) At the initial detention or placement, or any subsequent
8 change in placement of a foster child, the local educational agency
9 serving the foster child shall allow the foster child to continue his
10 or her education in the school of origin for the duration of the
11 jurisdiction of the court.

12 (2) If the jurisdiction of the court is terminated before the end
13 of an academic year, the local educational agency shall allow a
14 former foster child who is in kindergarten or any of grades 1 to 8,
15 inclusive, to continue his or her education in the school of origin
16 through the duration of the academic school year.

17 (3) (A) If the jurisdiction of the court is terminated while a
18 foster child is in high school, the local educational agency shall
19 allow the former foster child to continue his or her education in
20 the school of origin through graduation.

21 (B) For purposes of this paragraph, a school district is not
22 required to provide transportation to a former foster child who has
23 an individualized education program that does not require
24 transportation as a related service and who changes residence but
25 remains in his or her school of origin pursuant to this paragraph,
26 unless the individualized education program team determines that
27 transportation is a necessary related service.

28 (4) To ensure that the foster child has the benefit of matriculating
29 with his or her peers in accordance with the established feeder
30 patterns of school districts, if the foster child is transitioning
31 between school grade levels, the local educational agency shall
32 allow the foster child to continue in the school district of origin in
33 the same attendance area, or, if the foster child is transitioning to
34 a middle school or high school, and the school designated for
35 matriculation is in another school district, to the school designated
36 for matriculation in that school district.

37 (5) Paragraphs (2), (3), and (4) do not require a school district
38 to provide transportation services to allow a foster child to attend
39 a school or school district, unless otherwise required under federal
40 law. This paragraph does not prohibit a school district from, at its

1 discretion, providing transportation services to allow a foster child
2 to attend a school or school district.

3 (6) The educational liaison, in consultation with, and with the
4 agreement of, the foster child and the person holding the right to
5 make educational decisions for the foster child, may recommend,
6 in accordance with the foster child's best interests, that the foster
7 child's right to attend the school of origin be waived and the foster
8 child be enrolled in a public school that pupils living in the
9 attendance area in which the foster child resides are eligible to
10 attend.

11 (7) Before making a recommendation to move a foster child
12 from his or her school of origin, the educational liaison shall
13 provide the foster child and the person holding the right to make
14 educational decisions for the foster child with a written explanation
15 stating the basis for the recommendation and how the
16 recommendation serves the foster child's best interest.

17 (8) (A) If the educational liaison, in consultation with the foster
18 child and the person holding the right to make educational decisions
19 for the foster child, agrees that the best interests of the foster child
20 would best be served by his or her transfer to a school other than
21 the school of origin, the foster child shall immediately be enrolled
22 in the new school.

23 (B) The new school shall immediately enroll the foster child
24 even if the foster child has outstanding fees, fines, textbooks, or
25 other items or moneys due to the school last attended or is unable
26 to produce clothing or records normally required for enrollment,
27 such as previous academic records, medical records, including,
28 but not limited to, records or other proof of immunization history
29 pursuant to Chapter 1 (commencing with Section 120325) of Part
30 2 of Division 105 of the Health and Safety Code, proof of
31 residency, other documentation, or school uniforms.

32 (C) Within two business days of the foster child's request for
33 enrollment, the educational liaison for the new school shall contact
34 the school last attended by the foster child to obtain all academic
35 and other records. The last school attended by the foster child shall
36 provide all required records to the new school regardless of any
37 outstanding fees, fines, textbooks, or other items or moneys owed
38 to the school last attended. The educational liaison for the school
39 last attended shall provide all records to the new school within two
40 business days of receiving the request.

(9) If a dispute arises regarding the request of a foster child to remain in the school of origin, the foster child has the right to remain in the school of origin pending resolution of the dispute. The dispute shall be resolved in accordance with the existing dispute resolution process available to a pupil served by the local educational agency.

(10) The local educational agency and the county placing agency are encouraged to collaborate to ensure maximum use of available federal moneys, explore public-private partnerships, and access any other funding sources to promote the well-being of foster children through educational stability.

(11) It is the intent of the Legislature that this subdivision shall not supersede or exceed other laws governing special education services for eligible foster children.

(g) For purposes of this section, “school of origin” means the school that the foster child attended when permanently housed or the school in which the foster child was last enrolled. If the school the foster child attended when permanently housed is different from the school in which the foster child was last enrolled, or if there is some other school that the foster child attended with which the foster child is connected and that the foster child attended within the immediately preceding 15 months, the educational liaison, in consultation with, and with the agreement of, the foster child and the person holding the right to make educational decisions for the foster child, shall determine, in the best interests of the foster child, the school that shall be deemed the school of origin.

(h) This section does not supersede other law governing the educational placements in juvenile court schools, as described in Section 48645.1, by the juvenile court under Section 602 of the Welfare and Institutions Code.

SEC. 6. Section 317 of the Welfare and Institutions Code is amended to read:

317. (a) (1) When it appears to the court that a parent or guardian of the child desires counsel but is presently financially unable to afford and cannot for that reason employ counsel, the court may appoint counsel as provided in this section.

(2) When it appears to the court that a parent or Indian custodian in an Indian child custody proceeding desires counsel but is presently unable to afford and cannot for that reason employ counsel, the provisions of Section 1912(b) of Title 25 of the United

1 States Code and Section 23.13 of Title 25 of the Code of Federal
2 Regulations shall apply.

3 (b) When it appears to the court that a parent or guardian of the
4 child is presently financially unable to afford and cannot for that
5 reason employ counsel, and the child has been placed in
6 out-of-home care, or the petitioning agency is recommending that
7 the child be placed in out-of-home care, the court shall appoint
8 counsel for the parent or guardian, unless the court finds that the
9 parent or guardian has made a knowing and intelligent waiver of
10 counsel as provided in this section.

11 (c) If a child or nonminor dependent is not represented by
12 counsel, the court shall appoint counsel for the child or nonminor
13 dependent, unless the court finds that the child or nonminor
14 dependent would not benefit from the appointment of counsel. The
15 court shall state on the record its reasons for that finding. A primary
16 responsibility of counsel appointed to represent a child or nonminor
17 dependent pursuant to this section shall be to advocate for the
18 protection, safety, and physical and emotional well-being of the
19 child or nonminor dependent. Counsel may be a district attorney,
20 public defender, or other member of the bar, provided that he or
21 she does not represent another party or county agency whose
22 interests conflict with the child's or nonminor dependent's interests.
23 The fact that the district attorney represents the child or nonminor
24 dependent in a proceeding pursuant to Section 300 as well as
25 conducts a criminal investigation or files a criminal complaint or
26 information arising from the same or reasonably related set of facts
27 as the proceeding pursuant to Section 300 is not in and of itself a
28 conflict of interest. The court may fix the compensation for the
29 services of appointed counsel. The appointed counsel shall have
30 a caseload and training that ensures adequate representation of the
31 child or nonminor dependent. The Judicial Council shall
32 promulgate rules of court that establish caseload standards, training
33 requirements, and guidelines for appointed counsel for children
34 and shall adopt rules as required by Section 326.5 no later than
35 July 1, 2001. Those training requirements shall include instruction
36 on cultural competency and sensitivity relating to, and best
37 practices for, providing adequate care to lesbian, gay, bisexual,
38 and transgender youth in out-of-home care.

39 (d) Counsel shall represent the parent, guardian, child, or
40 nonminor dependent at the detention hearing and at all subsequent

1 proceedings before the juvenile court. Counsel shall continue to
2 represent the parent, guardian, child, or nonminor dependent unless
3 relieved by the court upon the substitution of other counsel or for
4 cause. The representation shall include representing the parent,
5 guardian, or the child in termination proceedings and in those
6 proceedings relating to the institution or setting aside of a legal
7 guardianship. On and after January 1, 2012, in the case of a
8 nonminor dependent, as described in subdivision (v) of Section
9 11400, no representation by counsel shall be provided for a parent,
10 unless the parent is receiving court-ordered family reunification
11 services.

12 (e) (1) Counsel shall be charged in general with the
13 representation of the child's interests. To that end, counsel shall
14 make or cause to have made any further investigations that he or
15 she deems in good faith to be reasonably necessary to ascertain
16 the facts, including the interviewing of witnesses, and shall
17 examine and cross-examine witnesses in both the adjudicatory and
18 dispositional hearings. Counsel may also introduce and examine
19 his or her own witnesses, make recommendations to the court
20 concerning the child's welfare, and participate further in the
21 proceedings to the degree necessary to adequately represent the
22 child. When counsel is appointed to represent a nonminor
23 dependent, counsel is charged with representing the wishes of the
24 nonminor dependent except when advocating for those wishes
25 conflicts with the protection or safety of the nonminor dependent.
26 If the court finds that a nonminor dependent is not competent to
27 direct counsel, the court shall appoint a guardian ad litem for the
28 nonminor dependent.

29 (2) If the child is four years of age or older, counsel shall
30 interview the child to determine the child's wishes and assess the
31 child's well-being, and shall advise the court of the child's wishes.
32 Counsel shall not advocate for the return of the child if, to the best
33 of his or her knowledge, return of the child conflicts with the
34 protection and safety of the child.

35 (3) Counsel shall investigate the interests of the child beyond
36 the scope of the juvenile proceeding, and report to the court other
37 interests of the child that may need to be protected by the institution
38 of other administrative or judicial proceedings. Counsel
39 representing a child in a dependency proceeding is not required to

1 assume the responsibilities of a social worker, and is not expected
2 to provide nonlegal services to the child.

3 (4) (A) At least once every year, if the list of educational
4 liaisons is available on the Internet Web site for the State
5 Department of Education, both of the following shall apply:

6 (i) Counsel shall provide his or her contact information to the
7 educational liaison, as described in subdivision (c) of Section
8 48853.5 of the Education Code, of each local educational agency
9 serving counsel's foster child clients in the county of jurisdiction.

10 (ii) If counsel is part of a firm or organization representing foster
11 children, the firm or organization may provide its contact
12 information in lieu of contact information for the individual
13 counsel. The firm or organization may designate a person or
14 persons within the firm or organization to receive communications
15 from educational liaisons.

16 (B) The child's caregiver or other person holding the right to
17 make educational decisions for the child may provide the contact
18 information of the child's attorney to the child's local educational
19 agency.

20 (C) Counsel for the child and counsel's agent may, but are not
21 required to, disclose to an individual who is being assessed for the
22 possibility of placement pursuant to Section 361.3 the fact that the
23 child is in custody, the alleged reasons that the child is in custody,
24 and the projected likely date for the child's return home, placement
25 for adoption, or legal guardianship. Nothing in this paragraph shall
26 be construed to prohibit counsel from making other disclosures
27 pursuant to this subdivision, as appropriate.

28 (5) Nothing in this subdivision shall be construed to permit
29 counsel to violate a child's attorney-client privilege.

30 (6) The changes made to this subdivision during the 2011–12
31 Regular Session of the Legislature by the act adding subparagraph
32 (C) of paragraph (4) and paragraph (5) are declaratory of existing
33 law.

34 (7) The court shall take whatever appropriate action is necessary
35 to fully protect the interests of the child.

36 (f) Either the child or counsel for the child, with the informed
37 consent of the child if the child is found by the court to be of
38 sufficient age and maturity to consent, which shall be presumed,
39 subject to rebuttal by clear and convincing evidence, if the child
40 is over 12 years of age, may invoke the psychotherapist-client

1 privilege, physician-patient privilege, and clergyman-penitent
2 privilege. If the child invokes the privilege, counsel may not waive
3 it, but if counsel invokes the privilege, the child may waive it.
4 Counsel shall be the holder of these privileges if the child is found
5 by the court not to be of sufficient age and maturity to consent.
6 For the sole purpose of fulfilling his or her obligation to provide
7 legal representation of the child, counsel shall have access to all
8 records with regard to the child maintained by a health care facility,
9 as defined in Section 1545 of the Penal Code, health care providers,
10 as defined in Section 6146 of the Business and Professions Code,
11 a physician and surgeon or other health practitioner, as defined in
12 former Section 11165.8 of the Penal Code, as that section read on
13 January 1, 2000, or a child care custodian, as defined in former
14 Section 11165.7 of the Penal Code, as that section read on January
15 1, 2000. Notwithstanding any other law, counsel shall be given
16 access to all records relevant to the case that are maintained by
17 state or local public agencies. All information requested from a
18 child protective agency regarding a child who is in protective
19 custody, or from a child's guardian ad litem, shall be provided to
20 the child's counsel within 30 days of the request.

21 (g) In a county of the third class, if counsel is to be provided to
22 a child at the county's expense other than by counsel for the
23 agency, the court shall first use the services of the public defender
24 before appointing private counsel. Nothing in this subdivision shall
25 be construed to require the appointment of the public defender in
26 any case in which the public defender has a conflict of interest. In
27 the interest of justice, a court may depart from that portion of the
28 procedure requiring appointment of the public defender after
29 making a finding of good cause and stating the reasons therefor
30 on the record.

31 (h) In a county of the third class, if counsel is to be appointed
32 to provide legal counsel for a parent or guardian at the county's
33 expense, the court shall first use the services of the alternate public
34 defender before appointing private counsel. Nothing in this
35 subdivision shall be construed to require the appointment of the
36 alternate public defender in any case in which the public defender
37 has a conflict of interest. In the interest of justice, a court may
38 depart from that portion of the procedure requiring appointment
39 of the alternate public defender after making a finding of good
40 cause and stating the reasons therefor on the record.

1 SEC. 7. Section 16010 of the Welfare and Institutions Code is
2 amended to read:

3 16010. (a) When a child is placed in foster care, the case plan
4 for each child recommended pursuant to Section 358.1 shall include
5 a summary of the health and education information or records,
6 including mental health information or records, of the child. The
7 summary may be maintained in the form of a health and education
8 passport, or a comparable format designed by the child protective
9 agency. The health and education summary shall include, but not
10 be limited to, the names and addresses of the child's health, dental,
11 and education providers; the child's grade level performance; the
12 child's school record; assurances that the child's placement in
13 foster care takes into account proximity to the school in which the
14 child is enrolled at the time of placement; the number of school
15 transfers the child has already experienced; the child's educational
16 progress, as demonstrated by factors, including, but not limited
17 to, academic proficiency scores; credits earned toward graduation;
18 a record of the child's immunizations and allergies; the child's
19 known medical problems; the child's current medications, past
20 health problems, and hospitalizations; a record of the child's
21 relevant mental health history; the child's known mental health
22 condition and medications; and any other relevant mental health,
23 dental, health, and education information concerning the child
24 determined to be appropriate by the Director of Social Services.
25 The health and education summary may also include the name and
26 contact information for the educational liaison, as described in
27 subdivision (c) of Section 48853.5 of the Education Code, of the
28 child's local educational agency. If any other law imposes more
29 stringent information requirements, then that section shall prevail.

30 (b) Additionally, a court report or assessment required pursuant
31 to subdivision (g) of Section 361.5, Section 366.1, subdivision (d)
32 of Section 366.21, or subdivision (c) of Section 366.22 shall
33 include a copy of the current health and education summary
34 described in subdivision (a). With respect to a nonminor dependent,
35 as described in subdivision (v) of Section 11400, a copy of the
36 current health and education summary shall be included in the
37 court report only if and when the nonminor dependent consents in
38 writing to its inclusion.

39 (c) As soon as possible, but not later than 30 days after initial
40 placement of a child into foster care, the child protective agency

1 shall provide the caregiver with the child's current health and
2 education summary as described in subdivision (a). For each
3 subsequent placement of a child or nonminor dependent, the child
4 protective agency shall provide the caregiver with a current
5 summary as described in subdivision (a) within 48 hours of the
6 placement. With respect to a nonminor dependent, as described in
7 subdivision (v) of Section 11400, the social worker or probation
8 officer shall advise the young adult of the social worker's or
9 probation officer's obligation to provide the health and education
10 summary to the new caregiver and the court, and shall discuss with
11 the youth the benefits and liabilities of sharing that information.

12 (d) (1) Notwithstanding Section 827 or any other law, the child
13 protective agency may disclose any information described in this
14 section to a prospective caregiver or caregivers prior to placement
15 of a child if all of the following requirements are met:

16 (A) The child protective agency intends to place the child with
17 the prospective caregiver or caregivers.

18 (B) The prospective caregiver or caregivers are willing to
19 become the adoptive parent or parents of the child.

20 (C) The prospective caregiver or caregivers have an approved
21 adoption assessment or home study, a foster family home license,
22 certification by a licensed foster family agency, or approval
23 pursuant to the requirements in Sections 361.3 and 361.4.

24 (2) In addition to the information required to be provided under
25 this section, the child protective agency may disclose to the
26 prospective caregiver specified in paragraph (1), placement history
27 or underlying source documents that are provided to adoptive
28 parents pursuant to subdivisions (a) and (b) of Section 8706 of the
29 Family Code.

30 (e) The child's caregiver shall be responsible for obtaining and
31 maintaining accurate and thorough information from physicians
32 and educators for the child's summary as described in subdivision
33 (a) during the time that the child is in the care of the caregiver. On
34 each required visit, the child protective agency or its designee
35 family foster agency shall inquire of the caregiver whether there
36 is any new information that should be added to the child's summary
37 as described in subdivision (a). The child protective agency shall
38 update the summary with the information as appropriate, but not
39 later than the next court date or within 48 hours of a change in
40 placement. The child protective agency or its designee family

1 foster agency shall take all necessary steps to assist the caregiver
2 in obtaining relevant health and education information for the
3 child's health and education summary as described in subdivision
4 (a). The caregiver of a nonminor dependent, as described in
5 subdivision (v) of Section 11400, is not responsible for obtaining
6 and maintaining the nonminor dependent's health and educational
7 information, but may assist the nonminor dependent with any
8 recordkeeping that the nonminor requests of the caregiver.

9 (f) At the initial hearing, the court shall direct each parent to
10 provide to the child protective agency complete medical, dental,
11 mental health, and educational information, and medical
12 background, of the child and of the child's mother and the child's
13 biological father if known. The Judicial Council shall create a form
14 for the purpose of obtaining health and education information from
15 the child's parents or guardians at the initial hearing. The court
16 shall determine at the hearing held pursuant to Section 358 whether
17 the medical, dental, mental health, and educational information
18 has been provided to the child protective agency.

19 *SEC. 8. Sections 1.5 and 2.5 of this bill incorporate*
20 *amendments to Section 48204 of the Education Code proposed by*
21 *both this bill and Senate Bill 200. They shall only become operative*
22 *if (1) both bills are enacted and become effective on or before*
23 *January 1, 2016, (2) each bill amends Section 48204 of the*
24 *Education Code, and (3) this bill is enacted after Senate Bill 200,*
25 *in which case Sections 1 and 2 of this bill shall not become*
26 *operative.*

27 ~~SEC. 8. If the Commission on State Mandates determines that~~
28 ~~this act contains costs mandated by the state, reimbursement to~~
29 ~~local agencies and school districts for those costs shall be made~~
30 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
31 ~~4 of Title 2 of the Government Code.~~